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History: C. 1953, 4-11-14, enacted by L. 1979, ch. 2, § 12.

Maintaining public nuisance a misdemeanor, § 76-10-804.

Cross-References. — Abatement of nuisances, §§ 76-10-806, 78-38-1.

4-11-15. Wax-salvage operations — County bee inspector to supervise compliance with regulations — Salvage procedures specified.

All wax-salvage operations with respect to wax, hives, apiary equipment, and appliances shall be performed under the direction and supervision of the county bee inspector according to procedures established by regulations of the department in an enclosure tightly double-screened with screens not less than two inches apart. Entrance to the enclosure shall be through a vestibule double-screened in the same manner as the enclosure with tight-fitting doors at each end.

All boiling or melting of any noncontaminated apiary equipment, such as cappings, honey supers, hives, or frames shall be done in a bee tight enclosure.

History: C. 1953, 4-11-15, enacted by L. 1979, ch. 2, § 12.

4-11-16. Repealed.

Repeals. — Section 4-11-16, as enacted by Laws 1979, ch. 2, § 12, making violations of

the chapter class "B" misdemeanors, was repealed by Laws 1985, ch. 104, § 8.

CHAPTER 12

UTAH COMMERCIAL FEED ACT

Section

- 4-12-1. Short title.
- 4-12-2. Definitions.
- 4-12-3. Department authorized to make and enforce regulations — Cooperation with state and federal agencies authorized.
- 4-12-4. Distribution of commercial and customer-formula feed — Registration or permit required — Application — Fees — Expiration — Renewal.
- 4-12-5. Labeling requirements for commercial and customer-formula feed specified.

Section

- 4-12-6. Enforcement — Inspection and samples authorized — Methods for sampling and analysis prescribed — Results to be forwarded to registrant or permittee — Warrants.
- 4-12-7. Suspension or revocation authorized — Refusal to register or issue permit authorized — Grounds — Stop sale, use, or removal order authorized — Court action — Procedure — Costs.
- 4-12-8. Unlawful acts specified.
- 4-12-9. Repealed.

4-12-1. Short title.

This chapter shall be known, and may be cited as the "Utah Commercial Feed Act".

History: C. 1953, 4-12-1, enacted by L. 1979, ch. 2, § 13.

COLLATERAL REFERENCES

Am. Jur. 2d. — 3 Am. Jur. 2d Agriculture § 56; 35 Am. Jur. 2d Food §§ 107, 108.

4-12-2. Definitions.

As used in this chapter:

- (1) "Adulterated commercial feed" means any commercial feed:
 - (a) (i) which contains any poisonous or deleterious substance which may render it injurious to health;
 - (ii) which contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug and Cosmetic Act (other than one which is a pesticide chemical in or on a raw agricultural commodity; or a food additive);
 - (iii) which contains any food additive or color additive which is unsafe within the meaning of Section 409 or Section 706, respectively, of the Federal Food, Drug and Cosmetic Act;
 - (iv) which contains a pesticide chemical in or on a raw agricultural commodity which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug and Cosmetic Act unless it is used in or on the raw agricultural commodity in conformity with an exemption or tolerance prescribed under Section 408 of the Federal Food, Drug and Cosmetic Act and is subjected to processing such as canning, cooking, freezing, dehydrating, or milling, so that the residue, if any, of the pesticide chemical in or on such processed feed is removed to the extent possible through good manufacturing practices as prescribed by regulations of the department so that the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity in Section 408 of the Federal Food, Drug and Cosmetic Act;
 - (v) which contains viable weed seeds in amounts exceeding limits established by regulation of the department; or
 - (vi) which contains a drug which does not conform to good manufacturing practice as prescribed by federal regulations promulgated under authority of the Federal Food, Drug and Cosmetic Act for medicated feed premixes and for medicated feeds unless the department determines that such regulations are not appropriate to the conditions which exist in this state;
- (b) which has a valuable constituent omitted or abstracted from it, in whole or in part, or its composition or quality falls below or differs from that represented on its label or in labeling.

(2) "Brand name" means any word, name, symbol, or device that identifies the distributor or registrant of a commercial feed.

(3) "Commercial feed" means all materials, except unadulterated whole unmixed seeds or unadulterated physically altered entire unmixed seeds, which are distributed for use as feed or for mixing in feed; provided, that the department may exempt from this definition by regulation, or from specific provisos of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances if such commodities, compounds, or substances are not intermixed or mixed with other materials, and are not adulterated within the meaning of Subsection (1)(a) of this section.

(4) "Customer-formula feed" means commercial feed which consists of a mixture of commercial feeds or feed ingredients manufactured according to the specific instructions of the final purchaser.

(5) "Distribute" means to offer for sale, sell, exchange, or barter commercial feed; or to supply, furnish, or otherwise provide commercial feed to a contract feeder.

(6) "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body.

(7) "Feed ingredient" means each constituent material in a commercial feed.

(8) "Label" means any written, printed, or graphic matter upon or accompanying a commercial feed.

(9) "Manufacture" means to grind, mix, blend, or otherwise process a commercial feed for distribution.

(10) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

(11) "Misbranded" means any commercial feed, whether in a container or in bulk, which bears a label that is false or misleading in any particular, or that bears a label that does not strictly conform to the labeling requirements of § 4-12-5.

(12) "Official sample" means a sample of commercial feed taken by the department and designated as "official."

(13) "Percent" or "percentage" means percentage by weight.

(14) "Ton" means a net weight of two thousand pounds avoirdupois.

History: C. 1953, 4-12-2, enacted by L. 1979, ch. 2, § 13.

Compiler's Notes. — Section 406 of the Federal Food, Drug, and Cosmetic Act, referred to in Subsection (1)(a)(ii), appears as 21 U.S.C. § 346.

Sections 409 and 706 of the Federal Food,

Drug, and Cosmetic Act, referred to in Subsection (1)(a)(iii), appear as 21 U.S.C. §§ 348 and 376.

Section 408 of the Federal Food, Drug, and Cosmetic Act, referred to in Subsection (1)(a)(iv), appears as 21 U.S.C. § 346a.

4-12-3. Department authorized to make and enforce regulations — Cooperation with state and federal agencies authorized.

The department is authorized, subject to the Utah [Administrative] Rule-making Act, to make and enforce such regulations as in its judgment are necessary to administer and enforce this chapter and may, in its discretion, cooperate with, or enter into agreements with, other agencies of this state, other states, and agencies of the United States in the administration and enforcement of this chapter.

History: C. 1953, 4-12-3, enacted by L.
1979, ch. 2, § 13.

Cross-References. — Utah Administrative Rulemaking Act, §§ 63-46a-1 to 63-46a-16.

4-12-4. Distribution of commercial and customer-formula feed — Registration or permit required — Application — Fees — Expiration — Renewal.

(1) No person may distribute a commercial feed in this state which is not registered with the department. Application for registration shall be made to the department upon forms prescribed and furnished by it accompanied with an annual registration fee, determined by the department pursuant to Subsection 4-2-2(2), for each brand name of commercial feed registered. Upon receipt of a proper application and payment of the appropriate fee, the commissioner shall issue a registration to the applicant allowing the applicant to distribute the registered commercial feed in this state through December 31 of the year in which the registration is issued, subject to suspension or revocation for cause.

(2) A person who distributes customer-formula feed is not required to register such feed, but is required to obtain a permit from the department before distribution. Application for a customer-formula feed distribution permit shall be made to the department upon forms prescribed and furnished by it accompanied with an annual permit fee determined by the department pursuant to Subsection 4-2-2(2). Upon receipt by the department of a proper application and payment of the appropriate fee as prescribed by the department, the commissioner shall issue a permit to the applicant allowing the applicant to distribute customer-formula feed in this state through December 31 of the year in which the permit is issued, subject to suspension or revocation for cause.

(3) Each registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee. Each renewal fee shall be paid on or before December 31 of each year.

(4) A customer-formula feed permit is renewable for a period of one year upon the payment of an annual permit renewal fee in an amount equal to the current applicable original permit fee. Each permit renewal fee shall be paid on or before December 31 of each year.

History: C. 1953, 4-12-4, enacted by L. 1979, ch. 2, § 13; L. 1984 (2nd S.S.), ch. 15, § 11; 1985, ch. 130, § 7.

Amendment Notes. — The 1984 (2nd S.S.) amendment substituted "fee determined by the department pursuant to Subsection 63-38-3(2)" for "fee of not less than \$15 nor more than \$30"

in Subsection (1) and for "fee of not less than \$50 nor more than \$75" in Subsection (2); and made minor changes in phraseology.

The 1985 amendment substituted "Subsection 4-2-2(2)" for "Subsection 63-38-3(2)" throughout the section.

4-12-5. Labeling requirements for commercial and customer-formula feed specified.

(1) Each container of commercial feed, except customer-formula feed, distributed in this state shall bear a label setting forth:

- (a) the name and principal address of the registrant;
- (b) the product or brand name, if any, under which it is distributed;
- (c) the feed ingredients stated in the manner prescribed by regulation of the department;
- (d) the net cumulative weight of the container and contents;
- (e) the lot number or some other means of lot identification; and
- (f) any information prescribed by regulation of the department deemed necessary for the safe and effective use of the feed.

(2) Each bulk shipment of commercial feed, except customer-formula feed, distributed in this state shall be accompanied with a printed or written statement specifying the information in Subsection (1)(a) through (f) of this section. The statement shall be delivered to the purchaser at the time the bulk feed is delivered.

(3) Each container or bulk shipment of customer-formula feed distributed in this state shall bear a label or be accompanied with an invoice setting forth:

- (a) the name and principal address of the manufacturer;
- (b) the name and principal address of the purchaser;
- (c) the date of delivery;
- (d) the net weight of each registered commercial feed used in the mixture and the net weight of each other ingredient used; and
- (e) any information prescribed by regulation of the department deemed necessary for the safe and effective use of the customer-formula feed.

History: C. 1953, 4-12-5, enacted by L. 1979, ch. 2, § 13.

4-12-6. Enforcement — Inspection and samples authorized — Methods for sampling and analysis prescribed — Results to be forwarded to registrant or permittee — Warrants.

(1) The department shall periodically sample, inspect, analyze, and test commercial feeds distributed within this state and may enter any public or private premises or vehicle for the purpose of determining compliance with this chapter. It may also in conjunction with such activities inspect records to determine compliance with this chapter.

(2) Methods for sampling and for analyses of feed ingredients, mineral ingredients, or other ingredients, or analyses of commercial feed mixtures (customer-formula feeds) shall be made in accordance with methods published by

the Association of Official Analytical Chemists or other generally recognized methods.

(3) The department shall be guided by the official sample in determining whether a commercial feed is misbranded, adulterated, or otherwise deficient.

(4) The results of all tests of official samples shall be forwarded by the department to the registrant or permittee, as the case may be, to the address specified on the container, label, or on the written statement or invoice. In addition, the department shall furnish to the registrant or permittee part of any official sample which it determines is misbranded or adulterated upon written request to the department made by the registrant within 30 days after receipt of the unsatisfactory test results.

(5) The department may proceed immediately, if admittance is refused, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.

History: C. 1953, 4-12-6, enacted by L. 1979, ch. 2, § 13.

Cross-References. — Enforcement of Agricultural Code, § 4-1-4.

4-12-7. Suspension or revocation authorized — Refusal to register or issue permit authorized — Grounds — Stop sale, use, or removal order authorized — Court action — Procedure — Costs.

(1) The department may suspend or revoke the registration or permit, respectively, of any brand name of commercial feed or customer-formula feed, or refuse to register or issue a permit for any brand name or product of commercial feed, upon satisfactory evidence that the registrant or permittee has used fraudulent or deceptive practices in the registration of a commercial feed or in the issuance of a permit, or in its distribution in this state.

(2) The department may issue a "stop sale, use, or removal order" to the distributor or owner of any designated commercial feed or lot of commercial feed which it finds or has reason to believe is misbranded, adulterated, or is otherwise in violation of this chapter. The order shall be in writing and no commercial feed subject to it shall be moved, offered, or exposed for sale, except upon subsequent written release by the department. Before a release is issued, the department may require the distributor or owner of the "stopped" commercial feed or lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.

(3) The department is authorized in a court of competent jurisdiction to seek an order of seizure or condemnation of a commercial feed which violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction to prevent the violation of this chapter. No bond shall be required of the department in an injunctive proceeding brought under this section.

(4) If condemnation is ordered, the commercial feed shall be disposed of as the court directs; provided, that in no event shall it order condemnation without giving the registrant or other person an opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the commercial feed into conformance, or for permission to remove it from the state.

(5) If the court orders condemnation, court costs, fees, storage, and other costs shall be awarded against the claimant of the commercial feed.

History: C. 1953, 4-12-7, enacted by L. 1979, ch. 2, § 13.

Cross-References. — Procedure for suspension or revocation of license, § 4-1-5.

4-12-8. Unlawful acts specified.

No person in this state shall:

- (1) manufacture or distribute adulterated or misbranded commercial feed;
- (2) adulterate or misbrand any commercial feed;
- (3) distribute agricultural products such as whole seed, hay, straw, stover, silage, cobs, husks, or bulbs which are adulterated;
- (4) remove or dispose of any commercial feed in violation of a "stop sale, use, or removal order;" or
- (5) distribute any commercial feed which is not registered or any customer-formula feed which is not subject to permit.

History: C. 1953, 4-12-8, enacted by L. 1979, ch. 2, § 13.

4-12-9. Repealed.

Repeals. — Section 4-12-9, as enacted by Laws 1979, ch. 2, § 13, making violations of the chapter class "B" misdemeanors, was repealed by Laws 1985, ch. 104, § 8.

CHAPTER 13

UTAH FERTILIZER ACT

Section		Section	
4-13-1.	Short title.		prohibited — Guaranteed analysis deficient — Penalty assessed —
4-13-2.	Definitions.		Time for payment — Court action to vacate or amend finding authorized.
4-13-3.	Distribution of commercial fertilizer or soil amendment — Registration required — Application — Fees — Expiration — Renewal — Exemptions specified — Blenders and mixers to register name under which business conducted — Blenders and mixers fee.	4-13-7.	Department to publish commercial values applied to components of commercial fertilizer.
4-13-4.	Labeling requirements for specialty fertilizer, bulk commercial fertilizer, packaged mixed fertilizer, and soil amendments specified.	4-13-8.	Suspension or revocation authorized — Refusal to register authorized — Grounds — Stop sale, use, or removal order authorized — Court action — Procedure — Costs.
4-13-5.	Enforcement — Inspection and samples authorized — Methods for sampling and analysis prescribed — Warrants.	4-13-9.	Sales or exchanges of commercial fertilizers or soil amendments between manufacturers, importers, or manipulators permitted.
4-13-6.	Distribution of fertilizers not complying with labeling requirements	4-13-10.	Repealed.